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STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW JUDGE DIVISION

ADMIN. LAW JUDGE DIV.

STATE OF SOUTH CAROLINA
DEPARTMENT OF INSURANCE

South Carolina Department of Insurance,)

21

Petitioner,)

vs.)

Andrew A. Jones and R & A Insurance)
Agency, Inc.,)

Respondents.)

CONSENT ORDER

DOCKET NO. 99-ALJ-09-0475-CC

This matter comes before me pursuant to S.C. Code Ann. §§ 1-23-600(B) and 38-43-130 (Supp. 1999) upon Andrew A. Jones' and R & A Insurance Agency, Inc.'s (Respondents) request for a contested case hearing regarding the decision of the South Carolina Department of Insurance (Petitioner) to revoke the Respondents' resident insurance agent's and/or agency's licenses for allegedly violating S.C. Code Ann. § 38-43-130 (Supp. 1999). A hearing was scheduled for February 8, 2000, but prior to that hearing date, an agreement was reached between the Petitioner and the Respondents. That agreement is as follows:

Respondents hereby admit, and I find as fact, that they have jointly and severally violated the insurance laws of South Carolina and the regulations promulgated by the Department of Insurance and have willfully deceived or dealt unjustly with the citizens of this State under S.C. Code Ann. § 38-43-130 by: 1) "failing to transmit promptly or pay all or a portion of the amount of an insurance premium when the agent or one of his employees has received payment from a customer or insured", 2) "issuing his check covering all or a portion of an insurance premium which is not accepted by the bank on which it is written when it is initially submitted to the bank", 3) "failing to deliver promptly a payment", 4) "failing to notify promptly the customer or insured if the agent has been unable to obtain the requested insurance for him", 5) "failing to refund premiums to a customer for which insurance had not been obtained not been obtained, and 6) failing to comply with the Department of Insurance Director's Order dated April 21, 1999, to provide proof to the Department of taking six hours of continuing education courses beyond that required by law within 90 days of that Order. These actions are all direct violations of S.C. Code Ann. § 38-43-130 (Supp. 1999) that can ultimately lead to the revocation of Respondents' respective licenses to transact the business of insurance in South Carolina.

The parties hereto agree that Respondent Andrew A. Jones' resident agent's license and R & A Insurance Agency, Inc.'s resident agency license shall be immediately suspended for a period of 90 days; that the Respondents shall make restitution of monies owed to those persons and/or entities below named within this 90 day time period; and that Respondents' respective licenses shall be revoked upon their failure to timely make restitution. Proof of restitution must

be submitted to the South Carolina Department of Insurance and to this tribunal within 90 days of this Consent Order by obtaining a letter or note of satisfaction from each party to whom money is owed. Should such proof not be submitted within this time period, Respondent Andrew A. Jones' resident insurance agent's license and Respondent R & A Insurance Agency, Inc.'s resident insurance agency's license shall be immediately revoked without any further administrative proceedings.

Respondents further agree that they shall never reapply for either an agent's license or an agency license in the State of South Carolina, nor shall they seek the renewal of any licenses currently held through the South Carolina Department of Insurance.

By their signatures upon this Consent Order, Respondents acknowledge that they understand this administrative disciplinary order is a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10 *et seq.* (1991 and Supp. 1999). Nothing contained within this administrative disciplinary order should be construed to limit or to deprive any person of any private right of action under the law. Nothing contained within this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained within this administrative disciplinary order should be construed to limit the statutory duty, pursuant to S.C. Code Ann. § 38-3-110(4) (Supp. 1999), of the Director of Insurance, exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the law relative to the business of insurance or the provisions of this title which he considers necessary to report."

S.C. Code Ann. § 38-43-130 (Supp. 1999) provides, "The director [of the Department of Insurance] or his designee may revoke or suspend an agent's license after ten days' notice or refuse to reissue a license when it appears that an agent has . . . violated this title or any regulation promulgated by the department, or has wilfully deceived or dealt unjustly with the citizens of this State." Section 38-2-10 (2) provides that for each violation of the insurance laws of South Carolina the director or his designee shall fine a violator \$2,500 or shall suspend or revoke his license, or both. Section 38-2-10 further provides that these penalties "are in addition to any criminal penalties provided by law or any other remedies provided by law", and that these administrative proceedings "do not preclude civil or criminal proceedings from taking place before, during, or after the administrative proceeding."

It is therefore ordered that Respondent Andrew A. Jones' resident agent's license and Respondent R & A Insurance Agency, Inc.'s resident agency license shall be immediately suspended for a period of 90 days, and that the Respondents, jointly and severally, shall make restitution of amounts owed to the following persons and/or entities within this 90 days. If restitution has not been made and proof of this satisfaction of debt has not been submitted to the Department of Insurance and to this tribunal within 90 days of the date of this Consent Order, Respondents' respective licenses shall be revoked without any further administrative proceedings. Restitution shall be in the form of certified funds and shall be paid as follows:

1. Hanover Excess & Surplus, Inc. \$5,163.30

2. Canal Insurance \$1,468.00
3. Siuprem, Inc. \$14,117.34
4. Ms. Virgin Howard \$678.16
5. Mr. Blake Halley \$328.00
6. Mr. Ronnie D. Williams \$704.00
7. Imperial A.I. Credit Companies \$45,000.00
8. Ms. Christopher L. Holloman \$623.00
9. James Glymph \$1,000.00
10. Orion Insurance on behalf of James Glymph \$8,600.00

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof, postage paid, in the United States mail addressed to the party(ies) or their attorney(s).

This 9th day of February, 2000

BY: Samela J. Fusco
Judicial Research Aide

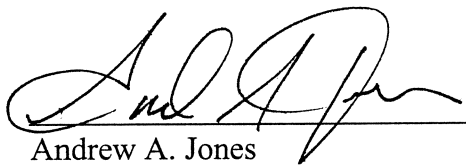
It is further ordered that a copy of this Consent Order shall be transmitted to the National Association of Insurance Commissioners for distribution to its current member states and to each insurer for which Andrew A. Jones is currently licensed through the State of South Carolina Department of Insurance, as a resident insurance agent.

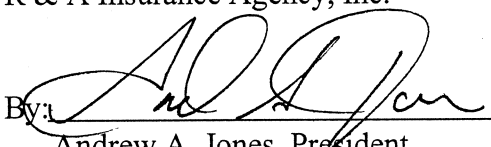
This Consent Order becomes effective as of the date of my signature below.

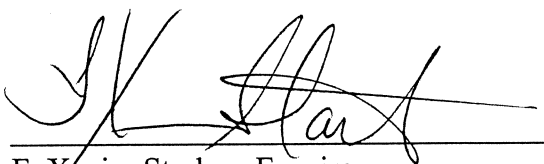

C. DUKES SCOTT
ADMINISTRATIVE LAW JUDGE

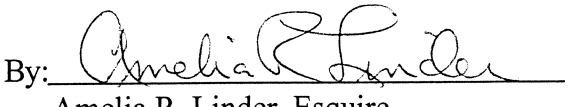
February 9, 2000, at
Columbia, South Carolina

WE CONSENT:


Andrew A. Jones
209 Wilshire Way
Columbia, South Carolina 29229

R & A Insurance Agency, Inc.
By: 
Andrew A. Jones, President
9308-B Two Notch Road
Columbia, South Carolina 29223


F. Xavier Starkes, Esquire
Attorney for Andrew A. Jones and R & A
Insurance Agency, Inc.
1500 Hampton Street
Columbia, South Carolina 29201

South Carolina Department of Insurance
By: 
Amelia R. Linder, Esquire
Assistant General Counsel
1612 Marion Street
Columbia, South Carolina 29201